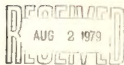


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AFFIRMATIVE ACTION PROGRAM

# AFFIRMATIVE ACTION PROGRAM

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## AFFIRMATIVE ACTION PROGRAM

### I. PREAMBLE

The exclusion of minorities from the economic main stream of the City, State and Nation, as it relates in particular to construction projects, has resulted in the necessity of the development of an Affirmative Action Plan designed to insure Equal Employment Opportunities for all, regardless of race, color, sex, religion or national origin.

### II. GENERAL EMPLOYMENT POLICIES

In order to meet these goals, a contractor working on any part of the project under a contract(s) or subcontract(s) exceeding \$2,500. shall be required to meet the conditions and provisions included herein which are incorporated into and made part of each contract(s) and subcontract(s).

This Affirmative Action Plan is applicable to all construction contracts within the City of Newark.

Compliance with all provisions of this Affirmative Action Program is a material condition of any contract or grant to which it is annexed or of which it is a part.

### III. GOALS

Historically, minority persons have been excluded from active participation in the construction industry.

### III. GOALS (Cont'd.)

The NRHA, having recognized this exclusion, seeks to achieve the following goals through the implementation of its Affirmative Action Program:

1. To assure that all tenants residing in public housing projects in the City of Newark participate fully in its economic mainstream.
2. To assure all minority citizens of the City of Newark a fair and equitable treatment in the allocation of contracts awarded by the Newark Housing Authority and grand awarded by the NRHA from federal, state or private sources.
3. To protect all minority citizens of Newark from discrimination in the craft trades.
4. To take whatever Affirmative Action steps necessary to insure that construction employment opportunities reach the female workforce of the City of Newark.\*
5. To seek full union membership for trainees (minorities) in all contracts and grants awarded by the NRHA to minority business enterprises.

\*NOTE: Office of Federal Contract Compliance Program Rules for Goals and Timetables for Women and Minorities in Construction April 12, 1978 issue of the Construction Labor Reporter.

#### IV. DEFINITIONS

For the purpose of the contract or grant, unless the context indicates a different meaning:

1. **ADVANCED TRAINEE** is a worker who has experience and skills used in construction work but lacks the skills to be a qualified journeyman and is classified by the Review Council, or a subcommittee thereof, as an advanced trainee.
2. **BASIC TRAINEE** is an applicant for employment who does not possess the qualifications for entrance into an apprenticeship program but demonstrates an interest in pursuing a craft in the construction industry and is classified by the Review Council, or a subcommittee thereof, as a basic trainee.
3. **CITY OF NEWARK** is defined to include the municipal corporation known as the City of Newark, or any agency or authority created by the City of Newark or funded by the City of Newark including but not limited to the Newark Redevelopment and Housing Authority, Newark Board of Education, Newark Parking Authority, Newark Museum and Newark Library.
4. **CONTRACTOR** means any party performing or offering to perform a contract with the Newark Redevelopment and Housing Authority contractor is also defined to include any party performing or offering to perform a contract with a developer.

#### IV. DEFINITIONS (Cont'd.)

5. **DEVELOPER** is any individual, partnership, corporation or other business entity who has contracted with the NRHA pursuant to N.J.S. 55:16-1 et seq. and 40:55C-1 et seq. in order to receive tax abatement or preferred tax treatment, and any other contracts.
6. **MINORITY\*\*** includes persons who are either Black, Hispanic, Asian or Pacific Islanders, American Indian or Alaskan Native as those terms are defined herein:
  - a. **BLACK:** All persons having origins in any of the Black racial groups of Africa.
  - b. **HISPANIC:** All persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race.\*
  - c. **ASIAN OR PACIFIC ISLANDERS:** All persons having origins in any of the original people of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands. This area includes, for example, China, Japan, Korea, the Philippine Islands, and Samoa.

**\*NOTE:** The category "HISPANIC" while not a race identification, is included as a separate race/ethnic category because of employment discrimination often encountered by this group; for this reason do not include HISPANIC under either "WHITE" or "BLACK."

**\*\*NOTE:** E.E.O.C. Form 164, State and Local Government Information (E.E.O.-4), Instruction Booklet, 1978.

#### IV. DEFINITIONS (Cont'd.)

- d. AMERICAN INDIAN OR ALASKAN NATIVE: All persons having origins in any of the original people of North America, and who maintain cultural identification through tribal affiliation or community recognition.
7. MINORITY BUSINESS ENTERPRISE means any business enterprise of which a minimum of 51% of the voting shares or interest in such business enterprise is held by individuals who are members of a minority and that a minimum of 51% of the net profit or loss is attributable to a minority.
8. MINORITY CONTRACTORS AND CRAFTSMEN TRADE ASSOCIATION (M.C.C.T.A.) located at 111-119 Sussex Avenue, Newark, New Jersey, is a non-profit corporation funded by the City of Newark, for the purpose of supplying technical assistance, construction management, training, screening and evaluation for M.B.E.'s.
9. NEW JERSEY CONSTRUCTION TRADES TRAINING CORPORATION at 370 Orange Street, Newark, New Jersey is a non-profit corporation, established for the purpose of supplying off-site training to minority individuals who are receiving on-site training pursuant to the various Affirmative Action Programs in the Greater Newark Area.

#### IV. DEFINITIONS (Cont'd.)

10. RECRUITMENT TRAINING PROGRAM is an organization established by the United States Department of Labor, for the purpose of recruiting and evaluating minority apprentices for the construction industry.
11. RESIDENT OF THE CITY OF NEWARK is any person who has been domiciled in the City of Newark for twelve (12) months prior to the application for employment and continues residency during term of employment.
12. REVIEW COUNCIL is a body composed of not less than nine members who are knowledgeable in the area of Affirmative Action process and who are to be appointed by the Executive Director of the MRHA with the approval of the Board of Commissioners.

The Review Council shall review contract bids received by the developer from all contractors to determine whether the bidder has met the Affirmative Action requirements of the Affirmative Action Plan. In addition, the Review Council shall oversee the operation of the Affirmative Action Program to insure compliance. It shall report to the Executive Director and make such recommendations as it deems necessary. The Review Council shall have other duties in addition as are described herein.



#### IV. DEFINITIONS (Cont'd.)

The CONSTRUCTION SUBCOMMITTEE are members of the Review Council appointed by the Chairman who shall review contract bids received by the City from all contractors and their known subcontractors to determine whether the bidder has met the requirements of the Affirmative Action Program to insure compliance. The Construction Subcommittee shall have such other duties as may be delegated to it by the Review Council.

The NRHA through the Chairman of the Review Council will consult with the Construction Subcommittee of the Affirmative Action Review Council. The review will center on the evaluation of documents submitted by bidders for the award of any contract to determine whether the bidder has met the fundamental requirements and conditions of this plan. The Construction Subcommittee will review referrals of journeymen from the New Jersey Construction Trades Training Corporation, or another training source designated and approved by the Review Council and apprentices from the Recruiting and Training Program (defined infra), and shall determine the qualifications and classify persons as journeymen, advanced trainees and basic trainees for the purpose of applying the provisions herein. Individuals shall be

#### IV. DEFINITIONS (Cont'd.)

determined qualified for employment as journeymen, advanced trainees and basic trainees solely upon the basis of experience, on-the-job evaluation and, where necessary, oral, written or performance examinations approved by the Review Council. No method of evaluation measuring qualifications other than a person's ability to perform work shall be valid.

13. SUBCONTRACTOR means a party that is engaged by the prime contractor to perform under a subcontract, all or part of the work included in the original contract.
14. GRANT: (a) An agreement between the Federal Government and a state or Local government whereby the Federal government provides funds to carry out specified programs or projects. (b) An agreement between the state and Local government whereby the State government provides funds to carry out specified programs or projects.

#### V. DEVELOPER'S CONTRACTING OBLIGATIONS

The developer/contractor shall submit to all contractors and subcontractors copies of this Affirmative Action Program and shall make said Affirmative Action Program a part of the bid specification. The developer shall require that by submitting a bid, the contractor or subcontractor certifies that he/she will comply with the requirements of this program. The developer shall be ultimately responsible for compliance with the Affirmative Action Program.

VI. CONTRACTOR'S CONTRACTING OBLIGATIONS

The contractor must submit a statement to each union with which he has a collective bargaining agreement covering workers to be employed on the project. Before the award of any subcontract is approved, the contractor will be required to submit such statement for each subcontractor having a collective bargaining agreement covering workers to be employed on the project. (See Appendix B). The contractor, in hiring for a job, shall make every effort to employ persons residing within Public Housing Projects 1st, the City of Newark 2nd, then the County of Essex, then the geographical jurisdiction of the appropriate union in order that persons employed on the project will be brought into the permanent construction industry labor force in the area, but in no event shall less than 40% of the entire labor force be residents of the City of Newark. In the event that the contractor does not meet the 40% requirement, the criteria for measuring good faith compliance contained in Article VII shall apply.

The contractor will make every good faith effort to meet the following goals of minority journeymen utilization in the performance of his contract, whether or not the work is subcontracted.

The goals of this Affirmative Action Program in the selected trades shall be 50 percent minority journeymen, but not less than the following ranges:

Chart on following page.

GOALS OF MINORITY  
JOURNEMEN UTILIZATION  
WITHIN THESE RANGES

TRADES DESCRIPTION

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Cabinet Makers/Finishers	30-35 percent
Asbestos Workers	30-35 percent
Asphalt Workers	30-35 percent
Bricklayers	30-35 percent
Carpenters	30-36 percent
Cement Finishers	30-35 percent
Curb & Sidewalk Installers	30-35 percent
Electricians	34-37 percent
Electrical Temperature Controllers	34-37 percent
Elevator Constructors	30-35 percent
Glaziers	29-32 percent
Heating Temperature Controllers	30-35 percent
Insulators	30-35 percent
Ironworkers	31-34 percent
Laborers	50 percent
Lathers	30-35 percent
Operating Engineers	30-35 percent
Painters	30-35 percent
Plasterers	30-35 percent
Plumbers/Pipefitters/Steamfitters	31-34 percent
Pneumatic Tubing Installers	31-34 percent
Roofers	33-36 percent
Sheetmetal Workers	30-33 percent
Sprinkler Fitter	30-35 percent
Tile Setters	30-35 percent
Others	30-35 percent

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At a minimum the contractor (and/or relevant subcontractors) shall submit with this bid the following documentation explicited in detail below upon bidding for any particular job:

- Union statement of compliance
- Affirmative Action intended goals
- Manning table (for subcontractors whose contracts exceed \$10,000 (See Appendix D)
- All collective bargaining agreements
- Designation of the contractor's Affirmative Action Officer
- Certification of compliance (narrative)

On the attached form (Appendix B), the contractor will submit with his bid goals of minority journeymen utilization in the trades, specified above in the performance of the contract, together with a projected manpower utilization program (Appendix D). These goals shall be applicable whether or not the work is subcontracted. To be eligible for the award of a contract, the goals submitted must be within the ranges specified above; but if the contractor fails to submit a goal with his bid as to any trade, he shall be deemed to have committed himself to a goal of minority journeymen utilization of the highest percentage within the range for such trade.

The above goals are expressed in the terms of man hours to be worked by minority journeymen during the performance of the contract. These goals shall be re-evaluated every six months, but any modification of the goals shall be applicable only to those contracts in which the modified goals are placed in the invitation for bids.

The contractor shall make every good faith effort to reach a goal of fifty percent (50%) minority group apprentices on the job in each trade listed in this Article VI in which apprentices are employed according to the apprentice to journeymen ratio contained in the collective bargaining agreement between the various contractors and the various unions, and shall hold each of his subcontractors to this requirement.

The Contractor will cooperate with the Review Council in providing on-site training for persons employed on the construction site and will provide on-site job opportunities to basic and advanced trainees referred to him by the Review Council under the training program.

The contractor working on any part of the project under a contract(s) or subcontractor(s) exceeding \$2,500. shall be required to have 1/5 (20%) of all journeymen hours worked by trainees in each trade. This shall apply to all speciality trades including but not limited to pneumatic tubing, cabinet makers/finishers, heating/electrical temperature controllers and curb and sidewalk installers. The contractor will cooperate in providing on-site opportunities to basic and advanced trainees referred by New Jersey Construction Trades Training Corporation,

or another training source designated and approved by the Review Council. Each trainee will be excused from work one day each week with pay in order to receive off-site training at New Jersey Construction Trades Training Corporation. The NRHA shall retain the New Jersey Construction Trades Training Corporation or another training source designated by the Review Council for the purpose of recruiting and supplying off-site training to minority trainees. Upon recommendation of the Construction Subcommittee the Review Council shall approve equivalent training programs from another source. At the Pre-Award Conference, prior to award, the apparent low bidder and the known principal subcontractors, including, but not limited to, those performing major items of work such as heating, electrical, plumbing, etc., will be required to attend a pre-award conference with the NRHA Affirmative Action Officer for the purpose of formulating an Affirmative Action Program relating to Equal Employment Opportunity as provided in the information to bidders.

At the pre-award conference an evaluation will be made of the adequacy of the contractor's plan as outlined in the pre-award documents.

The evaluation of the contractor's plans shall demonstrate his commitments to:

- a. Cooperate with the unions with which the contractor has agreements in the development of programs to assure qualified members of minority groups of equal opportunity in employment in the construction trades.
- b. Sponsor members of minority groups for training through New Jersey Construction Trades Training Corporation or another training source designated and approved by the Review Council.
- c. Improve opportunities for the upgrading of the minority group members of the construction force.
- d. Actively seek union membership for qualified minority group members of the construction force.
- e. Make certain that all recruiting activities are carried out on a non-discriminatory basis.
- f. Make known to all of its subcontractors, employees, all sources of referral, including the New Jersey Construction Trades Training Corporation and Recruitment Training Program, of its equal employment opportunity policy.
- g. Encourage minority group subcontractors to bid for subcontracting work.
- h. Demonstrate how minimum requirements have been met.



Cooperation with Unions. The contractor shall hold a pre-job conference with the representatives of the construction trades, at which time our Affirmative Action Policy will be presented and meaningful assistance in the employment of qualified members of minority groups--including apprentices--will be requested.

VII. REPORTING REQUIREMENTS

- a. The contractor must submit the contractor's weekly payroll records for all crafts covered under the contract provisions. In addition, a monthly cumulative summary of project man-hours must be provided on a craft-by-craft basis and identify as to minority or non-minority status.
- b. The contractor will permit access to weekly certified payroll records for all crafts covered under the contract provisions. In addition, he will include a monthly cumulative summary of project man-hours worked on a craft by craft basis, and identify as to minority or non-minority status.
- c. The contractor will, on the last working day of each month, report to the NRHA Affirmative Action Officer in writing a narrative of his efforts to ensure affirmative action. The report will include an appraisal as to the effectiveness of the contractor's program and will specify those factors and conditions which impede, restrict or account for less than complete success of the program.

Contractor Monitoring. The contractor shall continually monitor all personnel activities to ensure that the Affirmative Action Program is being carried out.

**Criteria for Measuring Good Faith.**

- a. The contractor will consider for employment as journeymen, basic trainees, advanced trainees and apprentices, persons referred to him by the Recruitment and Training Program and the New Jersey Construction Trades Training Corporation, or another training source designated and approved by the Review Council. If the Contractor does not employ any person so referred, he shall submit a written explanation by close of day to the Construction Subcommittee.
- b. The collective bargaining agreements between the various contractors and subcontractors and their various unions shall remain in force and effect except to the extent that they are inconsistent with the terms of the Affirmative Action Plan. Where required by custom or agreement, the contractor shall send referrals from the Recruitment and Training Program and the New Jersey Construction Trades Training Corporation, or another training source designated and approved by the Review

Council, to the union registrar for referral, or to the apprenticeship program for admission, pursuant to such agreement or arrangement. The unions, will, however, have no right of rejection over referrals.

- c. The contractor will notify the developer and the Review Council whenever he has reason to believe that a union with which he has a hiring hall or referral arrangement or an apprenticeship program engages in such referral, membership, admission or other practices as will substantially impede the contractor in his efforts to meet his Affirmative Action obligations under these supplemental conditions.
- d. A contractor shall not be deemed to have exercised good faith under this agreement solely because of union opposition, even if the unions threaten a work stoppage because of the implementation of this plan. It shall be incumbent upon the contractor as employer to see to it that referrals under this plan are treated fairly by the unions and their members.

The contractors (and each subcontractor whose contract(s) exceeds \$2,500), shall develop and submit a Manning Table.

VII. REPORTING REQUIREMENTS (Cont'd.)

This document shall identify his estimated manpower requirements for the duration of the job broken down by trade and month. The manning of the job shall be related to this document which shall be brought up to date and require but not less than once monthly.

The contractor shall submit copies of his collective bargaining agreement covering workers to be employed on the project, and copies of such bargaining agreements of each subcontractor.

The contractor shall designate a principal officer of his firm to be affirmative action officer who shall be responsible for administering the Affirmative Action Program detailed herein. This officer shall meet regularly or as may be required with all contractors and the Review Council to insure attainment of the goals set forth herein and the implementation of the training program.

Included in this obligation is the requirement that each prime contractor keep and maintain records for all trainees so that separate payroll amounts and descriptions of payments, training progress, together with all benefits, are recorded separately. (The benefits derived from additional workers on the job, if available, are considered to offset any additional administrative and supervisory costs incurred by the contractor.)

## VII. REPORTING REQUIREMENTS (Cont'd.)

Minority craftsmen referred to the contractor from Recruitment and Training Program and the New Jersey Construction Trades Training Corporation, or another training source designated and approved by the Review Council, shall not be displaced by a union referred minority if he becomes available.

The developer, contractors and subcontractors agree that the Newark Redevelopment and Housing Authority shall be a third party beneficiary with respect to the Affirmative Action provisions of all contracts relating to this project. They further agree that as third party beneficiary, the NRHA may take such legal action to enforce the provisions referred to as it may deem necessary, without the approval or consent of the developer, contractors, or subcontractors.

## VIII. UNION STATEMENTS

The developer shall require that when the contractor has a referral agreement or arrangement with a union covering workers to be employed on this project, he shall submit with his bid a statement similar to Appendix A signed by an authorized union official, in which the union agrees as follows:

1. The union will take such action as may be necessary with respect to the referral and the employment of

VIII. UNION STATEMENTS Cont'd

minority group persons in order to enable the contractor to meet his obligations under this Affirmative Action Plan.

2. The union will cooperate with the contractor who has the obligation to provide on-site training.
3. Minority group journeymen employed by the contractor shall be admitted to union membership within the time limits contained in the applicable collective bargaining agreements, union constitutions and by-laws.

The contractor will promptly notify the developer and the Review Council of any failure of a union to comply with the statement. If a union has refused to sign the statement described above, the contractor will document his efforts to obtain such statement, including a description with the reasons given by the union for not signing such statement, and submit such documentation, together with his bid. A bid shall be unresponsive if unaccompanied either by an acceptable union statement or by documentation as to why such statement could not be obtained.

In addition, the award of a contract or a subcontract will not be approved if such contractor has not submitted acceptable union statement or an explanation of the failure to obtain a statement.

VIII. UNION STATEMENTS (Cont'd.)

The failure of the union to sign the statement described above does not excuse the contractor from his obligations to comply with the conditions and provisions of the Affirmative Action Program.

IX. SUBCONTRACTORS

The developer shall require that each prime contractor is responsible for the performance of his subcontractors for the implementation of the aforementioned equal employment requirements during the performance of the contract. Whenever the contractor subcontracts a portion of the work on this project, the subcontract shall bind the subcontractor to the obligations contained in these supplemental conditions to the full extent as if he were the contractor. Furthermore, the contractor must include a provision in all contracts with subcontractors to insure compliance with all other conditions included herein, as well as with the New Jersey Executive Order 21 and N.J.S.A. 10:2-1 through 10:2-4, the President's Executive Order No. 11246 (30 F.R. 12319-25), N.J.S.A. 10:5-31 et. seq. and Chapter 127 of Public Laws of 1975.

X. NONDISCRIMINATION

The contractor shall not discriminate against employees and applicants for employment on the grounds of union membership or on the grounds of race, color, religion, sex, national origin and handicap.

## XI. NONCOMPLIANCE

In the event of failure by a contractor to meet his minority manpower commitments under these supplemental conditions, he shall be given an opportunity to demonstrate that he has made every good faith effort to meet commitments. In any proceeding in which such good faith is in issue, all of the actions of the contractor in seeking to comply with these requirements shall be reviewed and evaluated by the Review Council. Compliance with these conditions will be monitored by a full-time Affirmative Action Compliance Officer employed by NRRA.

1. Affirmative Action Compliance Officer will issue a written ALFRT NOTICE to a contractor and appropriate unions whenever, in his opinion, a breach of these conditions appears to be developing.
2. If the ALFRT NOTICE is not removed within three (3) working days by a correction of the deficiencies, the Affirmative Action Compliance Officer shall follow up the ALFRT NOTICE by issuing a written VIOLATION NOTICE. Upon the issuance of such notice, the contractor will have seven (7) working days to remove the violation. If the violation has not been removed within that period the Construction Subcommittee will make recommendations to the Review Council of action to be taken by the NRRA.



XI. NONCOMPLIANCE (Cont'd.)

3. Either or both notices may be removed if the contractor meets his obligations under these supplemental conditions or if he presents a satisfactory explanation in writing as to why such compliance is impractical or impossible.
4. Compliance will be monitored by the Review Council or one of its members acting on its behalf.
5. Failure to satisfactorily remove the VIOLATION NOTICE will be cause for the Executive Director of the NRHA to:
  - a. Require the developer/contractor to enforce his obligations under his contract with contractors and subcontractors, either by suit at law or arbitration, whichever is appropriate.
  - b. Commence an action or proceed in arbitration as a third party beneficiary.
  - c. Withhold contract or grant payments.
  - d. Recommend termination or suspension of the contracts in whole or in part to the Municipal Council.
  - e. Take all other actions available at Law or Equity for the breach of a material condition of a contract.

XI. NONCOMPLIANCE (Cont'd.)

The use of any or all of the remedies above shall rest solely with the Executive Director of Newark Redevelopment and Housing Authority.

6. The Executive Director of the NRHA reserves the right to impose for each day of noncompliance penalties as follows:

<u>CONTRACT OR GRANT AMOUNT</u>	<u>PENALTY PER DAY OF NONCOMPLIANCE</u>
2,500 - 199,999	\$100
200,000 - 499,999	150
500,000 1,499,999	200
1,500,000 - 2,999,999	250
3,000,000 4,999,999	300
5,000,000 ~ and above	500

- a. The Contractor will be fined, plus, he will be required to pay the individual or individuals, directly affected by the contractor's non-compliance, for all time that should have been worked by that individual or individuals has it not been for the contractor's failure to comply with this Affirmative Action Plan.

XII. MINORITY OWNED BUSINESS PARTICIPATION ON CONSTRUCTION CONTRACTS

1. On all construction contracts to be awarded by the NRHA the contractor will insure that he will use minority-owned businesses for not less than 25% of the total contract or grant amount.

XII. MINORITY OWNED BUSINESS PARTICIPATION ON CONSTRUCTION  
CONTRACTS (Cont'd)

2. Any contractor that does not meet the minimum level of 25% minority participation will be given an opportunity to display the "good faith" effort made towards meeting the goals of this Affirmative Action Program. For purposes of this action, "good faith" effort shall be defined to include the following:
  - (a) Informing associations and consortia of minority enterprises of bid specifications well in advance of the closing date for bid submission.
  - (b) Actively recruiting consortia of minority enterprises to bid on subcontracts.
  - (c) Limiting the size and dollar volume of subcontracts to the extent feasible and otherwise arranging solicitations, time for preparation of bids specifications and completion dates in order to make it possible for minority enterprises to bid and compete for said contracts.
  - (d) Upon receipt of a statement from a minority enterprise, supported by an affidavit, that he is unable to obtain requisite bonding or insurance through normal channels, assuming the responsibility for meeting such requirements or otherwise making appropriate arrangement which shall eliminate these

XII. MINORITY OWNED BUSINESS PARTICIPATION ON CONSTRUCTION  
CONTRACTS Cont'd.

requirements as obstacles to the granting of the subcontract to such minority enterprise.

- e. Providing whatever other counseling or assistance as may be necessary during the preparatory stages and the actual performance of such subcontracts.
  - f. Offering to assist minority enterprises in entering into joint ventures with others for the purpose of accomplishing a total subcontract, if they so desire.
3. In the event that the percentage of the contract and/or subcontract work designated for minority-owned enterprises is not at least 25% of the total dollar volume of the contract and it is determined by the Affirmative Action Review Council that a "good faith" effort has not been made, it shall recommend to the Executive Director, who in turn shall consult with the governing body and take one or more of the following actions:
- a. Require the contractor to enforce his obligation under his contract with subcontractors.
  - b. Commence an action either by suit or arbitration whichever is appropriate, as a third party beneficiary.

XII. MINORITY OWNED BUSINESS PARTICIPATION ON CONSTRUCTION CONTRACTS (Cont'd.)

- c. Take all other actions available at law or equity for the breach of a material condition of a contract.
- d. Consider the breach of this agreement an act of irresponsibility by the contractor which the NRHA may take into account in evaluating future bids by that contractor.

The use of any or all of the above remedies shall rest solely with the discretion of the Executive Director of the NRHA. Failure of the Executive Director to act shall not be considered a waiver.

XIII. MINORITY-OWNED BUSINESS PARTICIPATION ON TAX ABATEMENT

- 1. On all construction which is to be awarded a tax abatement by the Municipal Council of the City of Newark, the developer of the project will use his best efforts in good faith to insure that the general contractor will use minority-owned businesses. In selecting a minority-owned business, the contractor shall make every effort to select subcontractors who have their principal place of business in the City of Newark first, then the County of Essex, then the Greater Newark Metropolitan area.

XIII. MINORITY OWNED BUSINESS PARTICIPATION ON TAX TREATMENT  
(Cont'd.)

2. For purposes of this selection, a "good faith" effort shall be defined to include the following:
  - a. Informing Minority Contractors and Craftsmen's Trade Association, or any other organization designated by the Review Council, of contract specifications in advance of the closing date for submission.
  - b. Actively recruiting consortia of minority enterprises on subcontracts.
  - c. Limiting the size and dollar volume of subcontracts to the extent reasonably feasible and otherwise arranging solicitations, time for preparation of bids, specifications and completion dates in order to make it possible for minority enterprises to bid and compete for said contracts.
  - d. Providing whatever other counseling as may be necessary during the preparatory stages and the actual performance of such subcontracts.
  - e. Offering to assist minority enterprises in entering into joint ventures with others for the purpose of accomplishing a total subcontract.
3. In the event that it is determined by the Affirmative Action Review Council that a "good faith" effort has not been made to assure that the general contractor

XIII. MINORITY OWNED BUSINESS PARTICIPATION ON TAX ABATEMENT  
(Cont'd.)

will use minority-owned businesses, it shall recommend to the Executive Director that one or more of the following actions be taken:

- a. Require the developer to enforce his obligation under his contract with contractors and subcontractors.
- b. Commence an action, either by suit or arbitration whichever is appropriate, as a third party beneficiary.
- c. Order that the developer or any offending contractor be barred from participating in any projects requiring tax abatement for a period of seven (7) years from the date of violation.

The use of any or all of the above or other remedies shall rest solely with the discretion of the Executive Director of the NRHA. Failure of the Executive Director to act shall not be considered a waiver.

XIV. GOVERNMENTAL REQUIREMENTS

It is expected that all contractors and/or developers will comply with any and all applicable federal or state programs as exemplified by Executive Order #11246, as amended. However, in accordance with the available labor market statistics, the NRHA will require that a minimum of 25% of the total dollar amount of an individual contract or grant be awarded to minority-owned business enterprises.

EXECUTIVE ORDER NO. 11246

PART II - NONDISCRIMINATION IN EMPLOYMENT BY GOVERNMENT  
CONTRACTORS AND SUBCONTRACTORS

SUBPART B - CONTRACTORS' AGREEMENT

Section 202. Except in contracts exempted in accordance with Section 204 of this Order, all Government contracting agencies shall include in every Government contract hereafter entered into the following provisions:

"During the performance of this contract, the contractor agrees as follows:

"(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.



"(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

"(3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

"(4) The contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

"(5) The contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders to the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for the purposes of investigation to ascertain compliance with such rules, regulations, and orders.

"(6) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any federal rules, regulations, or orders, this contract may be cancelled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor or as otherwise provided by law.

"(7) The Contractor will include the provisions of Paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States."

LOCAL PUBLIC WORKS, II - The Local Public Works Capital Development and Investment Act of 1976 (42.U.S.C. 6701-6710), became law on July 22, 1976. The Secretary of Commerce promulgated regulations and guidelines for carrying out Round II of L.P.W.

The regulations, insofar as they relate to MBE's provide:

"No grant shall be made under this part for any project unless at least ten percent of the amount of such grant will be expended for contracts with and/or supplies from minority business enterprises...."

STATEMENT OF COMPLIANCE

## AFFIRMATIVE ACTION PLAN

The employment policies and practices of the Your Company's Name are to recruit and to hire employees without discrimination because of race, creed, color or national origin, and to treat them equally with respect to compensation and opportunities for advancement, including upgrading, promotion and transfer.

This company submits this plan to assure compliance with Executive Order 11246 and subsequent orders and more specifically the Newark Affirmative Action Plan that may pertain to this program and to reaffirm its continued commitment to a program of equal employment opportunity and merit employment policies.

It agrees to assert leadership within the community and to put forth the maximum effort to achieve full employment and utilization of the capabilities and productivity of all our citizens without regard to race, creed, color or national origin.

This company further recognizes that the effective application of a policy of merit employment involves more than just a policy statement and will, therefore, undertake a program of affirmative action to make known that equal employment opportunities are available on the basis of individual merit and to encourage all persons to seek employment with the company and to strive for advancement on this basis.

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President/Director

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Your Company's Name  
and Address

cc: Charles A. Bell  
Affirmative Action Officer

Your Company's Letterhead

This letter must be  
certified with not in rec 11  
Requested, with copies of 11th  
sent to Office of Affirmative Action

Local Union 000  
234 Main Street  
Millsville, New Jersey

Reference:      Name of Project  
                 Newark, New Jersey

Gentlemen:

The Name of the Company is morally and legally committed to nondiscrimination in employment. Any person who applies for a job with this company will not be discriminated against because of race, creed, national origin, handicap or sex.

In policy statements, all of our National Unions have declared a firm commitment to this type policy in consonance with the Civil Rights Act of 1964, Executive Order No. 11246, N.J.S.A. 10:5-31 et seq.

To this end, we earnestly solicit your help by engaging in aggressive recruitment for minorities. May we count on your help in this matter?

Please acknowledge your intentions in this matter and indicate whether or not your policies and practices will be consistent with the provisions of the Civil Rights Act of 1964 and Executive Order No. 11246. And that you will agree to comply with the Newark Affirmative Action Program as it pertains to the reference project.

Very truly yours,

John Doe  
President

cc: Charles A. Bell  
Affirmative Action Officer

Your Company's Letterhead

Designation of Compliance Officer/Equal Employment Opportunity Representative

Your Company  
231 Oak Street  
Hitsville, New Jersey

Attention: ALL EMPLOYEES

Mr. John Doe has been appointed the Affirmative Action Compliance Officer, under direct supervision of Your Company's Director/President, for the Name of your Company. He/she will handle all complaints which allege discrimination because of race, creed, color, or national origin. He/she will also handle all compliance situations relative to the Newark Affirmative Action Program.

This Company is bound to live up to the provisions of the Civil Rights Act of 1964 and the current Executive Order relating to Equal Employment Opportunity.

Mr. John Doe can be reached by telephone at phone number. His office address is 231 Oak Street, Hitsville, New Jersey.

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President/Director

cc: Charles A. Bell  
Affirmative Action Officer

Your Company's Letterhead

Contractor's Obligations

Office of Affirmative Action  
Newark Redevelopment and  
Housing Authority  
560 Broad Street  
Newark, New Jersey 07102

Attention: Charles A. Bell  
Affirmative Action Officer

Dear Mr. Bell:

We shall designate the Affirmative Action Officer to submit the weekly certified payroll records for all crafts covered under the contract provisions. In addition, we will include a monthly cumulative summary of project manhours worked on a craft by craft basis, and identified as to minority or non-minority status.

The Name of Your Company will submit copies of our collective bargaining agreement covering workers to be employed on the project.

This report is required by Executive Order 11246, section 203. Failure to report can result in sanctions.

Very truly yours,

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Your Company's Name and Address

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John Doe  
President

JD:ar

APPENDIX E  
CONTRACTORS PROJECTED MANPOWER UTILIZATION  
BY MONTH

[illegible]



APPENDIX F

CONTRACTOR'S GOALS

T R A D E

G O A L S (In Percent)

Tile Setters  
Cabinet Makers/Finishers  
Asbestos Workers  
Asphast Workers  
Bricklayers  
Carpenters  
Cement Finishers  
Curb & Sidewalk Installers  
Electricians  
Electrical Temperature Controllers  
Elevator Constructors  
Glaziers  
Heating Temperature Controllers  
Insulators  
Ironworkers  
Laborers  
Lathers  
Operating Engineers  
Painters  
Plasterers  
Plumbers/Pipefitters/Steamfitters  
Pneumatic Tubing Installers  
Roofers  
Sheetmetal Workers